



No. 638.

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JAMES D. MAHER
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Supreme Court of the United States

OCTOBER TERM, 1916.

INTER-ISLAND STEAM NAVIGATION
COMPANY, LIMITED, an Hawaiian
Corporation,

Plaintiff in Error,

vs.

GEORGE E. WARD,

Defendant in Error.

Error to the
Circuit Court
of Appeals,
Ninth Circuit.

REPLY BRIEF OF DEFENDANT IN ERROR ON MOTION TO DISMISS FOR WANT OF JURISDICTION

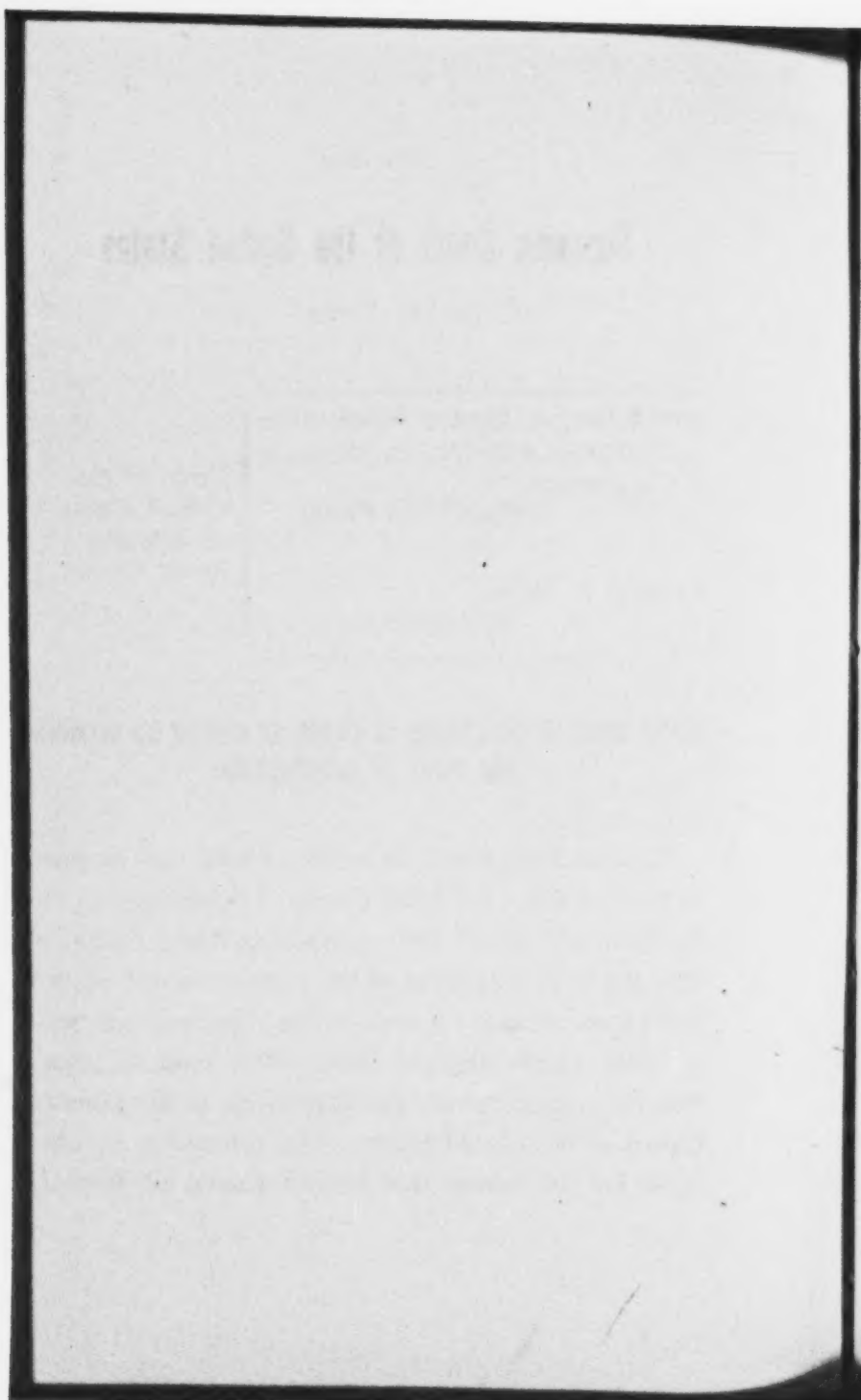
E. A. DOUTHITT,
Attorney for Defendant in Error.

Filed this day of, 1916.

J. D. MAHER, *Clerk.*

By

Deputy Clerk.



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Counsel for plaintiff in error contend that in view of the fact that the Circuit Courts of Appeals were, by the Judiciary Act of 1891, given appellate jurisdiction over the final judgments of the supreme courts of the Territories, there is no force in the argument that Section 241 of the Judicial Code, refers only to cases, Federal in their nature, and originating in the District Courts of the United States. This contention is fallacious for the reason that Circuit Courts of Appeal,

pursuant to Section 15 of the Act of 1891, exercised appellate jurisdiction over the final judgments of the supreme courts of the Territories in certain specified cases, set forth in Section 6 of said Act, which were mainly and essentially of a *federal character*. The whole scheme of the appellate jurisdiction of the Circuit Courts of Appeal, according to the Judiciary Acts of 1891 and 1911, is based upon cases involving a federal question.

Plaintiff in error also argues that because Section 128 of the Code makes the judgments of the Circuit Courts of Appeal final in certain enumerated cases, the case at bar not being one of those, that Section 241 applies. This reasoning is unsound, because Sections 128 and 241 are to be read together; and as Section 128 refers only to the appellate jurisdiction of the Circuit Courts of Appeal over the final decisions of the District Courts of the United States, including the United States District Court for Hawaii, it is manifest that this court can exercise appellate jurisdiction over the final judgments of the Circuit Courts of Appeal only in such other cases of a federal character, not made final by the provisions of Section 128, and originating in the District Courts of the United States, including the District Court for Hawaii.

Counsel admit in their brief (p. 11) that the actual intent of Congress in passing the Act of January 28, 1915, was to relieve this court. It is the policy of courts to carry out, if possible, the object of the law-makers; and a construction of Section 241 of the Judicial Code allowing a writ of error in this case, would not only fail to carry out the intention of Congress, but would defeat the plain object of a law passed to relieve this court of a part of its burden.

Respectfully submitted,

E. A. DOUTHITT,
Attorney for Defendant in Error.